

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:20-CV-609-D

ARTHUR E. DAVIS, III,)
Plaintiff,)
v.)
DEBRA K. DAVIS, et al.,)
Defendants.)

ORDER

Plaintiff Arthur E. Davis, III (“Davis” or plaintiff”) is a former Virginia attorney who so mishandled funds from his parents’ estate that the Wake County Superior Court Clerk removed him as executor on September 5, 2012, and he ultimately consented to revocation of his Virginia Bar License on November 21, 2014. See Order, In re Arthur Emerson Davis III, VSB Docket No. 13-042-094-524 (Nov. 21, 2014) (unpublished). Since that time, Davis has engaged in unending litigation against his siblings concerning the estate. This case is the latest chapter.

For the reasons stated in defendants’ memorandum of law in support of their motion to dismiss [D.E. 31], the court DISMISSES counts 2–8 for lack of subject-matter jurisdiction due to the probate exception. See Marshall v. Marshall, 547 U.S. 293, 308–12 (2006); Markham v. Allen, 326 U.S. 490, 494 (1946); N.C. Gen. Stat. § 28A-2-4(a). The court DISMISSES plaintiff’s fraud, fraudulent transfer, slander, and distribution claims for failure to state a claim upon which relief can be granted due to collateral estoppel and res judicata. See [D.E. 31] 7–14. The court DISMISSES plaintiff’s conversion, malicious prosecution, fraud, slander, and fraudulent transfer claims for failure to state a claim upon which relief can be granted due to the statute of limitations. See [D.E. 31] 14–17, 19–21. The court DISMISSES plaintiff’s extortion claims for failure to state a claim upon which relief can be granted. See [D.E. 31] 18–19. The court DISMISSES plaintiff’s slander

claim based on judicial privilege. See id. at 19–21. The court DISMISSES all claims against Karla L. Nelson, Joseph Davis, Pamela Rock, and Thomas Davis pursuant to Rule 12(b)(6) and 8(a)(2). See [D.E. 31] 21–22. The court GRANTS defendants' motion for reasonable attorneys' fees because there is “a complete absence of a justiciable issue of either law or fact raised by the losing party in any pleading.” N.C. Gen Stat. § 6-21.5; [D.E. 31] 22–24. Defendants shall document and file their request for reasonable attorneys' fees not later than June 14, 2021.

SO ORDERED. This 12 day of May 2021.

J. Dever
JAMES C. DEVER III
United States District Judge